United Nations ST/IC/2015/22

Secretariat

22 September 2015

Information circular*

To: Members of the staff

From: The Under-Secretary-General for Management

Subject: **Practice of the Secretary-General in disciplinary matters and cases of criminal behaviour, 1 July 2014 to 30 June 2015**

1. The purpose of the present circular[1] is to continue to inform staff members of the practice of the Secretary-General in exercising his authority in disciplinary matters under article X of the Staff Regulations of the United Nations, and to implement paragraph 17 of resolution 59/287, in which the General Assembly requested the Secretary-General to ensure that all staff of the Organization are informed of the most common examples of misconduct and/or criminal behaviour and their disciplinary consequences, including any legal action, with due regard for the protection of the privacy of the staff members concerned. Reference is also made to section 6.6 of the ST/SGB/2008/5 (Prohibition of discrimination, harassment, including sexual harassment and abuse of authority) and the requirement to provide information regarding disciplinary cases regarding prohibited conduct as defined in ST/SGB/2008/5. This circular covers the period from 1 July 2014 to 30 June 2015.

2. A broad overview of the administrative machinery in disciplinary matters is provided in section I below. Section II contains a summary of the cases in which one or more disciplinary measures were imposed by the Secretary-General on Secretariat staff members during the reporting period. Section III provides information on the practice of the Secretary-General in cases of possible criminal behaviour.

* The present circular is in effect until further notice.

[1] Previous circulars covering the period from January 2000 to June 2014 were issued as ST/IC/2002/25, ST/IC/2004/28, ST/IC/2005/51, ST/IC/2006/48, ST/IC/2007/47, ST/IC/2008/41, ST/IC/2009/30, ST/IC/2010/26, ST/IC/2011/20, ST/IC/2012/19, ST/IC/2013/29 and ST/IC/2014/26.

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I. Overview of the administrative machinery with respect to disciplinary matters

A. Legislative framework governing the conduct of staff members

3. Article 101, paragraph 3, of the Charter of the United Nations states that the "paramount consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence and integrity".

4. Article I of the Staff Regulations and chapter I of the Staff Rules, both entitled "Duties, obligations and privileges", set out the basic values expected of international civil servants because of their status, as well as particular manifestations of such basic values. Particular reference is made to staff regulation 1.2 and staff rule 1.2 for specific instances of expected and prohibited conduct.

B. Misconduct

5. Staff regulation 10.1 (a) provides that "the Secretary-General may impose disciplinary measures on staff members who engage in misconduct". Staff rule 10.1 (a) provides that the "failure by a staff member to comply with his or her obligations under the Charter of the United Nations, the Staff Regulations and Staff Rules or other relevant administrative issuances or to observe the standards of conduct expected of an international civil servant may amount to misconduct and may lead to the institution of a disciplinary process and the imposition of disciplinary measures for misconduct". Additionally, staff rule 10.1 (c) provides that "the decision to launch an investigation into allegations of misconduct, to institute a disciplinary process and to impose a disciplinary measure shall be within the discretionary authority of the Secretary-General or officials with delegated authority". Within those parameters, the Secretary-General has broad discretion in determining what constitutes misconduct and in imposing disciplinary measures. The administrative instruction on revised disciplinary measures and procedures (ST/AI/371 and Amend.1) provides further examples of conduct for which disciplinary measures may be imposed. A new administrative instruction on investigations and the disciplinary process continues to be under preparation and remains the subject of ongoing discussion and consultation among management and other stakeholders.

C. Procedural fairness

6. Where the head of office or other responsible officer believes, following an investigation, that misconduct may have occurred, he or she refers the matter to the Assistant Secretary-General for Human Resources Management for a decision on whether to pursue the matter as a disciplinary case. Depending on the subject matter and complexity of the report of misconduct, the investigation may have been undertaken by the head of office or his or her designees, or by the Office of Internal Oversight Services, at its own initiative or at the request of a head of office.

7. If the Assistant Secretary-General for Human Resources Management decides to pursue the matter as a disciplinary case, the staff member is notified in writing of

the allegations of misconduct and is informed of his or her opportunity to comment on the allegations and of the right to seek the assistance of counsel in his or her defence through the Office of Staff Legal Assistance or from outside counsel at his or her own expense. The staff member is given a reasonable opportunity to respond to the allegations of misconduct. In the light of the comments provided by the staff member, the Assistant Secretary-General for Human Resources Management decides whether to close the case, with or without administrative action, or to recommend the imposition of one or more disciplinary measures. In the latter case, the Under-Secretary-General for Management decides whether to impose one or more of the disciplinary measures provided for in staff rule 10.2 (a).

8. Staff rule 10.4 (a) provides that, at any time pending an investigation until the completion of the disciplinary process, a staff member may be placed on administrative leave by the appropriate official.

9. In accordance with staff rule 10.3 (c), a staff member against whom a disciplinary measure has been imposed may submit an application to the Dispute Tribunal challenging the imposition of the measure in accordance with chapter XI of the Staff Rules.

D. Disciplinary measures

10. Staff rule 10.2 (a) provides that disciplinary measures may take one or more of the following forms (i.e., more than one measure may be imposed in each case):

(a) Written censure;

(b) Loss of one or more steps in grade;

(c) Deferment, for a specified period, of eligibility for salary increment;

(d) Suspension without pay for a specified period;

(e) Fine;

(f) Deferment, for a specified period, of eligibility for consideration for promotion;

(g) Demotion, with deferment, for a specified period, of eligibility for consideration for promotion;

(h) Separation from service, with notice or compensation in lieu of notice, and with or without termination indemnity;

(i) Dismissal.

11. In determining the appropriate measure, each case is decided on its own merits, taking into account the particulars of the case, including aggravating and mitigating circumstances. Additionally, in accordance with staff rule 10.3 (b), disciplinary measures imposed must be proportionate to the nature and gravity of the misconduct involved.

E. Other measures

12. Written or oral reprimands, recovery of moneys owed to the Organization and administrative leave with or without pay are not considered disciplinary measures. Reprimands, such as warnings or letters of caution, are administrative and/or managerial measures that are important for upholding standards of proper conduct and promoting accountability. In addition, where conduct that may amount to misconduct has an impact on performance, the issue may be addressed in the context of performance management. This may include training, counselling, the withholding of salary increments, the non-renewal of a contract or the termination of an appointment.

II. Summary of cases in which disciplinary measures were imposed during the period from 1 July 2014 to 30 June 2015

13. For each case that led to the imposition of one or more disciplinary measures, a summary is provided below indicating the nature of the misconduct and the disciplinary measure or measures imposed by the Under-Secretary-General for Management. The functional title of the staff members or other particulars relating thereto are provided only when they played a role as aggravating or mitigating circumstances in determining the measures to be taken. Conduct issues that were dealt with by means other than disciplinary measures are not listed.

14. As noted above, both aggravating and mitigating factors are taken into account in determining a sanction, and these vary according to the unique facts and circumstances of a case. Examples of possible aggravating factors are the repetition of acts of misconduct, the intent to derive personal benefit and the degree of harm resulting from the misconduct. Examples of possible mitigating factors are sincere remorse, a staff member's personal circumstances and voluntary disclosure of the acts of misconduct.

15. Not every case brought to the attention of the Secretary-General results in disciplinary or other measures being taken. When a review by the Office of Human Resources Management reveals that there is insufficient evidence to pursue a matter as a disciplinary case, or when a staff member provides a satisfactory explanation in response to the formal allegations of misconduct, the case is closed. Cases may also be closed when a staff member retires or otherwise separates from the Organization before an investigation or the disciplinary process is concluded, as the Secretary-General does not have the authority to impose disciplinary measures on former staff members. In such cases, a record is made and placed in the former staff member's official status file so that the matter can be further considered if and when the staff member rejoins the Organization.

A. Abuse of authority, harassment and discrimination

16. A staff member in a senior position harassed a subordinate, improperly favoured another staff member and created a hostile working environment.

Disposition: demotion with deferment, for a period of three years, of eligibility for promotion.

B. Theft and misappropriation

17. A staff member stole money from the wallet of another staff member. The mitigating circumstance of the staff member's admission and apology was considered, but reduced by the fact that, having been caught in the act, the staff member had little alternative but to admit the conduct. The fact that the act targeted a close colleague and breached the heightened relationship of trust between staff members who worked closely together was considered an aggravating factor.

Disposition: dismissal.

18. A staff member, while performing security and screening functions at an airport, took, without authorization, $2,200 from the luggage of a passenger travelling on a United Nations flight. There were mitigating circumstances, including the staff member's voluntary repayment of the money taken, and certain procedural irregularities. The fact that the staff member violated the position of trust as a security official was an aggravating circumstance.

Disposition: separation from service, with compensation in lieu of notice and without termination indemnity.

19. A staff member who was a warehouse assistant attempted to take, without authorization, a ream of paper and approximately 15 plastic seals belonging to the Organization. There were mitigating circumstances, including the time taken to dispose of the case.

Disposition: separation from service, with compensation in lieu of notice and with termination indemnity.

20. A staff member took, without authorization, a drum of petroleum product belonging to the Organization and sold it to a third party. There were mitigating circumstances, including the time taken to dispose of the case and the recovery of the drum of petroleum product.

Disposition: separation from service, with compensation in lieu of notice and without termination indemnity.

21. Two staff members were involved with the unauthorized removal and sale of tyres belonging to the Organization. The loss to the Organization attributable to these staff members could not be quantified.

Disposition: separations from service, with compensation in lieu of notice and without termination indemnities.

22. A staff member took, without authorization, a vehicle belonging to the Organization. The vehicle was recovered.

Disposition: separation from service, with compensation in lieu of notice and without termination indemnity.

23. A staff member took, without authorization, fuel belonging to the Organization. The fact that the staff member exercised the functions of a driver and therefore had a heightened duty of care towards the Organization's assets that related to the staff member's duties was considered as an aggravating factor. The specific amount of fuel taken by the staff member could not be ascertained.

Disposition: dismissal.

24. A staff member took, without authorization, fuel belonging to the Organization. Aggravating factors were present, including the staff member's functions as a driver. The specific amount of fuel taken by the staff member could not be ascertained.

Disposition: dismissal.

25. A staff member falsified documents relating to the volume of fuel dispensed and sold fuel belonging to the Organization, without authorization. The specific amount of fuel taken by the staff member could not be ascertained.

Disposition: separation from service, with compensation in lieu of notice and without termination indemnity.

26. A staff member who was a warehouse assistant improperly created and used a document that purportedly authorized the staff member to move barbed wire belonging to the Organization from United Nations premises, when, in fact, no such authorization had been granted. Aggravating factors were present, including that the staff member's functions related to managing inventory. The staff member was required to repay the Organization the value of the materials removed.

Disposition: separation from service, with compensation in lieu of notice and without termination indemnity.

27. A staff member improperly instructed an individual contractor who was working under the staff member's supervision to destroy property belonging to the Organization. Mitigating circumstances were present, including the time taken to dispose of the case. Aggravating circumstances included the staff member involving and falsely implicating a subordinate in the wrongdoing. No property was removed from the Organization's premises.

Disposition: separation from service, with compensation in lieu of notice and without termination indemnity.

28. A staff member improperly altered the labelling on the salary envelopes of several independent contractors and removed cash from the envelopes, all without authorization. The staff member was required to repay the Organization a sum equivalent to the moneys removed.

Disposition: separation from service, with compensation in lieu of notice and without termination indemnity.

29. Three staff members removed from envelopes money that was to be used to pay the wages of individual contractors. There were mitigating circumstances, including the staff members' voluntary return of the moneys taken and the time taken to resolve the case.

Disposition: separations from service, with compensation in lieu of notice and without termination indemnities.

C. Misrepresentation and false certification

30. A staff member repeatedly misrepresented the educational qualifications obtained by the staff member on the personal history profiles submitted by the staff member to the Organization and falsely certified the accuracy of the information in

the context of selection exercises. Mitigating circumstances were present, including long and satisfactory service with the Organization.

Disposition: separation from service, with compensation in lieu of notice and with termination indemnity.

31. A staff member misrepresented the staff member's educational qualifications on the staff member's P.11 form, falsely certified the accuracy of the information and submitted a false diploma to the Organization in the context of a selection exercise. Mitigating circumstances were present, including long and satisfactory service with the Organization.

Disposition: separation from service, with compensation in lieu of notice and with termination indemnity.

32. A staff member made material omissions in multiple personal history profiles concerning the staff member's history of arrest and conviction. The staff member also failed to notify the Secretary-General that the staff member had been summoned before a court in a criminal proceeding and that the staff member had been criminally convicted. Mitigating circumstances were present, including long and satisfactory service of the staff member with the Organization.

Disposition: separation from service, with compensation in lieu of notice and with termination indemnity.

33. A staff member made a material omission in a personal history profile concerning a history of arrest and conviction. The staff member indicated that the staff member had never been arrested or convicted for the violation of any law despite having been convicted of theft the previous year.

Disposition: separation from service, with compensation in lieu of notice and with termination indemnity.

34. A staff member submitted an education grant claim and documentation that contained false information. The overpayment of $1,912.50 was recovered from the staff member.

Disposition: separation from service, with compensation in lieu of notice and without termination indemnity.

35. A staff member submitted multiple education grant claims and documentation that contained false information, signatures and stamps.

Disposition: dismissal.

36. A staff member submitted leave-related documentation that did not accurately reflect the staff member's absences from a duty station. There were mitigating circumstances, including the time taken to resolve the case and the satisfactory service of the staff member in difficult duty stations.

Disposition: deferment, for a period of one year, of eligibility for consideration for salary increment, and written censure.

D. Misuse of United Nations property or assets

37. A staff member used an official vehicle of the Organization to transport approximately 173 kilograms of marijuana.

Disposition: dismissal.

38. Two staff members each drove a United Nations vehicle without a valid driver's permit and improperly used a driver's permit that had been issued by the Organization to a United Nations Volunteer. The fact that the staff members exercised supervisory functions as security guards was considered an aggravating factor.

Disposition: For each staff member, loss of three steps in grade, with deferment, for a period of one year, of eligibility for salary increment, and written censure, and an administrative measure consisting of the withdrawal for a period of one year of any supervisory duties.

39. A staff member who performed the functions of a supply officer enabled an individual to travel on a United Nations aircraft without proper authorization by providing false information in the documentation pertaining to the travel. There were mitigating circumstances, including the time taken to resolve the case and the staff member's remorse.

Disposition: demotion of one grade, with deferment, for a period of one year, for eligibility for consideration for promotion, and written censure.

40. A staff member knowingly included false information in movement-related documentation prepared on behalf of a friend and approved this documentation in the staff member's official capacity. The staff member also permitted the friend to reside at the staff member's residence without authorization. Mitigating factors were present, including the staff member's remorse and the difficult working conditions at the staff member's duty station. Aggravating factors were present, including the staff member's abuse of trust as a senior official.

Disposition: separation from service, with compensation in lieu of notice and with termination indemnity.

41. A staff member working in movement-related functions at a United Nations air terminal attempted to transport a chainsaw on a United Nations passenger flight on behalf of a colleague without authorization and failed to follow any of the applicable safety and screening procedures when doing so. Aggravating circumstances were present, including the staff member's long service in movement-related functions.

Disposition: separation from service, with compensation in lieu of notice and without termination indemnity.

42. A staff member who had access to confidential code cables by virtue of the staff member's functions improperly obtained confidential code cables and disseminated them to one or more unauthorized recipients. Aggravating factors were present, including the special trust and responsibility resulting from the staff member's functions in communications.

Disposition: dismissal.

E. Misuse of United Nations information and communications technology resources

43. A staff member declared as official, to the Organization, communications made from the staff member's official mobile telephone that were, in fact, private in nature. Recovery of the moneys owed to the Organization was initiated as an administrative measure during the investigation; such action was not contested by the staff member.

Disposition: fine of two months' net base salary and written censure.

44. A staff member declared as official, to the Organization, a large number of communications that were, in fact, private in nature and falsified data relating to telephone charges incurred by other staff members in order to attempt to hide the staff member's actions. Recovery of the moneys owed to the Organization was effected together with the disciplinary measure.

Disposition: separation from service, with compensation in lieu of notice and without termination indemnity.

45. A staff member stored pornographic material on the staff member's United Nations computer and failed to report that another staff member had forwarded pornographic material to the staff member through the Organization's e-mail system.

Disposition: demotion of one grade with deferment, for a period of two years, of eligibility for consideration for promotion.

46. A staff member stored pornographic material, including pornography involving a minor, on the staff member's United Nations computer, distributed other pornographic material through the Organization's e-mail system and failed to report that another staff member had sent the staff member inappropriate material through the Organization's e-mail system.

Disposition: dismissal.

47. A staff member sent, through the Organization's e-mail system, and stored on the staff member's United Nations computer, pornographic material involving a minor and, on other occasions, distributed, through the Organization's e-mail system, other pornographic material.

Disposition: dismissal.

48. A staff member sent, through the Organization's e-mail system, pornographic material involving a minor and, on three other occasions, distributed other pornographic material through the Organization's e-mail system and stored pornographic material on the staff member's United Nations computer.

Disposition: dismissal.

49. A staff member sent, through the Organization's e-mail system, pornographic material, including pornographic material involving a minor, and failed to report that another staff member had sent the staff member inappropriate material though the Organization's e-mail system.

Disposition: dismissal.

F. Unauthorized outside activities

50. A staff member owned and managed an outside concern without obtaining prior authorization from the Secretary-General.

Disposition: loss of a step in grade and deferment, for one year, of eligibility for a salary increment, and written censure.

G. Assault and abusive conduct

51. A staff member used threatening language, including veiled threats, towards another staff member.

Disposition: demotion with deferment, for one year, of eligibility for consideration for promotion.

52. A staff member serving as a security guard physically assaulted and used verbally abusive language towards another staff member. There were mitigating factors, including the staff member's personal circumstances.

Disposition: separation from service, with compensation in lieu of notice and with termination indemnity.

53. A staff member assaulted another staff member with a pool cue. There were mitigating factors, including that the staff member was cooperative during the investigation and made amends to the staff member who was assaulted.

Disposition: separation from service, with compensation in lieu of notice and with termination indemnity.

54. A staff member attempted to attack another staff member with a knife.

Disposition: dismissal.

55. A staff member attempted to physically assault another staff member and verbally abused the same staff member. There were mitigating circumstances, including the staff member's emotional distress arising from work-related matters.

Disposition: loss of four steps in grade and written censure.

56. A staff member who was a security guard physically assaulted and threatened to kill an individual contractor.

Disposition: dismissal.

57. A staff member assaulted another staff member. There were mitigating factors, including the fact that the victim of the assault had directed abusive language towards the staff member.

Disposition: separation from service, with compensation in lieu of notice and with termination indemnity.

58. A staff member physically assaulted another staff member during the course of an argument concerning a work-related dispute. There were mitigating factors, including the staff member's long and satisfactory service with the Organization.

Disposition: separation from service, with compensation in lieu of notice and with termination indemnity.

59. A staff member repeatedly threatened to kill or suggested that the staff member could arrange to kill the Head of Mission.

Disposition: separation from service, with compensation in lieu of notice and without termination indemnity.

60. A staff member drove a tractor in the direction of a prefabricated office in which the staff member's supervisor was working, with the intent of damaging the office and injuring the staff member's supervisor. Mitigating circumstances were present, including long-standing workplace-related issues.

Disposition: separation from service, with compensation in lieu of notice and without termination indemnity.

H. Inappropriate or disruptive behaviour

61. During a staff protest at a peacekeeping mission, a staff member improperly restricted the movement of pedestrians and/or vehicles in and out of the base; intimidated and/or physically assaulted one or more individuals; attacked and/or damaged a United Nations vehicle; and permitted one or more local journalists to enter the mission without authorization.

Disposition: dismissal.

62. During a staff protest at a peacekeeping mission, a staff member disarmed a military officer.

Disposition: dismissal.

63. During a staff protest at a peacekeeping mission, a staff member improperly restricted the movement of pedestrians and/or vehicles in and out of the base and intimidated a security officer, including by attempting to take the security officer's personal property.

Disposition: dismissal.

64. During a staff protest at a peacekeeping mission, a staff member attacked and/or damaged a United Nations vehicle and damaged the property of a staff member of another United Nations entity.

Disposition: separation from service, with compensation in lieu of notice and without termination indemnity.

65. During a staff protest at a peacekeeping mission, a staff member intimidated a security officer.

Disposition: loss of three steps in grade and written censure.

I. Failure to honour private obligations

66. A staff member failed to honour a private legal obligation. Aggravating circumstances were present, including the length of time the obligation had been outstanding.

Disposition: deferment, for a period of one year, of eligibility for consideration for promotion, and written censure. The staff member was also instructed to report regularly on steps taken to meet the staff member's private legal obligation.

67. A staff member failed to honour a private legal obligation. Aggravating circumstances were present, including the length of time the obligation had been outstanding.

Disposition: deferment, for a period of one year, of eligibility for consideration for promotion, and written censure. The staff member was also instructed to report regularly on steps taken to meet the staff member's private legal obligation.

68. A staff member failed to honour a private legal obligation. Aggravating circumstances were present, including the amount of the obligation ($100,000) and the length of time it had been outstanding.

Disposition: deferment, for a period of two years, of eligibility for consideration for promotion, and written censure. The staff member was also instructed to report regularly on steps taken to meet the staff member's private legal obligation.

J. Other

69. A staff member offered to assist one or more persons external to the Organization with securing United Nations employment in exchange for money.

Disposition: separation from service, with compensation in lieu of notice and without termination indemnity.

70. A staff member accepted a benefit from a United Nations vendor in the form of assistance in a personal financial transaction and assisted the vendor in a procurement process. There were mitigating circumstances, including the staff member's lack of training in procurement functions.

Disposition: separation from service, with compensation in lieu of notice and with termination indemnity.

71. A staff member violated numerous requirements regarding movement of personnel in a mission environment, including regarding curfew hours and allowing a non-United Nations person to stay overnight in United Nations accommodation, all without authorization. Aggravating factors were present, including the prior issuance of two letters of reprimand for failure to abide by the standards of conduct expected of an international civil servant.

Disposition: separation from service, with compensation in lieu of notice and with termination indemnity.

72. A staff member engaged in conduct not befitting the status of an international civil servant in connection with the sale of a substance by the staff member.

Disposition: loss of two steps in grade and written censure.

73. A staff member engaged in conduct not befitting the status of an international civil servant in connection with a selection exercise.

Disposition: fine of one month's net base salary and written censure.

74. A staff member carried a private firearm aboard a United Nations shuttle bus and into United Nations offices. The fact that the staff member secured the firearm in a location that was normally used to secure the firearms of visitors to the mission premises operated as a mitigating factor.

Disposition: written censure.

75. A staff member entered into an agreement with a company that entitled the staff member to receive a commission in connection with a commercial project intended to benefit staff. There were mitigating factors, including that the project did not proceed and the involvement of staff union issues.

Disposition: written censure.

III. Possible criminal behaviour

76. In its resolution 59/287, the General Assembly requested the Secretary-General to take action expeditiously in cases of proven misconduct and/or criminal behaviour and to inform Member States about the actions taken. During the reporting period, eight cases involving credible allegations of criminal conduct by United Nations officials or experts on mission were referred to Member States.